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Sent by email only to 

Subject: Inderøy (complaint)

- *Preliminary assessment under paragraph 48(b) of the Authority's Guidelines on Best Practice for the conduct of state aid control procedures*

1 General

Reference is made to your complaint to the Competition and State Aid directorate of the EFTA Surveillance Authority ("the Authority") dated 14 October 2018 regarding alleged state aid to Grande Eiendom AS and Fuglesangdahl AS.

In your complaint, you allege that Inderøy Municipality ("the Municipality") has granted aid to Grande Eiendom AS and Fuglesangdahl AS by selling two plots of land ("Sentrumstomta" and "Nessjordet B 5") below market price.

Since receiving your complaint, the Authority has gathered information from the Norwegian authorities, and conducted a preliminary examination of these measures. Against this background, the Authority is of the preliminary view that Grande Eiendom AS and Fuglesangdahl AS have not received aid in breach of the EEA state aid rules.

2 No advantage

2.1 Introduction

According to Article 61(1) of the EEA Agreement, a measure constitutes state aid if the following conditions are cumulatively fulfilled: the measure (i) is granted by the state or through state resources; (ii) confers a selective economic advantage on the beneficiary; and (iii) is liable to affect trade between Contracting Parties and to distort competition.

Following a preliminary examination of the complaint, the Authority is of the view that Grande Eiendom AS and Fuglesangdahl AS have not received aid in breach of the EEA state aid rules as Sentrumstomta and Nessjordet B 5 appear to have been sold at market price. Therefore, no economic advantage has been conferred on Grande Eiendom AS and Fuglesangdahl AS, within the meaning of the state aid rules.

An economic advantage, within the meaning of Article 61(1) of the EEA Agreement, is any economic benefit which an undertaking could not have obtained under normal market conditions.¹

Economic transactions carried out by public bodies do not confer an advantage on its counterpart, and therefore do not constitute aid, if they are carried out in line with normal market conditions.²

It is the Authority's preliminary opinion that neither Grande Eiendom AS nor Fuglesangdahl AS have obtained an economic advantage which they could not have obtained under normal market conditions.

2.2 Sentrumstomta

As part of the sales process relating to Sentrumstomta, the Municipality sought assistance from a professional consulting and design firm, Rambøll. The Municipality also advertised the sale of Sentrumstomta on the open market as a development and architectural competition. In order to ensure the highest possible participation in the competition, the Municipality adopted several measures, such as:

- announcing the sale on the public announcement website for public procurement, Doffin,
- directly contacting a number of relevant regional real estate developers,
- advertising the sale through regional media,
- sending out 10 to 15 programmes relating to the competition, and
- holding four meetings with relevant stakeholders.

Despite the Municipality's efforts to stimulate interest for the competition, they only received one bid (from Grande Eiendom AS). The jury put in place to select a winner, consisting of members from both Rambøll and the Municipality, considered this bid to satisfy all the conditions that formed part of the basis for the competition. Consequently, the bid was regarded as sufficient.

The price for Sentrumstomta was determined through negotiations with Grande Eiendom AS. In this regard, the Municipality's goal was to achieve the best possible overall conditions, including price, provided that the solution relating to the physical development of the plot of land was regarded as acceptable for the Municipality. The parties agreed on a price of NOK 635 per m². The Municipality regarded this agreement as satisfactory, and far better than the alternative, namely to reject the offer and arrange a new competition, which would have led to a delay in the process.

Furthermore, you allege in your complaint that Grande Eiendom AS has obtained an advantage by being granted dispensations relating to Sentrumstomta. However, the Norwegian authorities have provided information showing that the Municipality did in fact not grant dispensations in relation to Sentrumstomta. Rather, the Municipality followed the normal procedure, as set out in the Planning and Building Act, which among other things gives the Municipality the competence to make

¹ See the Authority's Guidelines on the notion of State aid as referred to in Article 61(1) of the EEA Agreement (Notion of aid), ([OJ L 342, 21.12.2017, p. 35](#) and [EEA Supplement No 82, 21.12.2017, p. 1](#)), at paragraph 66.

² Notion of aid, paragraph 74.

changes regarding the zoning of a plot of land, and to impose different requirements on developers.

Based on the foregoing, the Authority is of the view that the sales process relating to Sentrumstomta is eligible to ensure that Grande Eiendom AS did not receive an advantage that it would not have been able to obtain under normal market conditions.

2.3 Nessjordet B 5

Whether a transaction is in line with market conditions can be established on the basis of a generally-accepted, standard assessment methodology.³ In the case of sales of land, an independent expert evaluation conducted prior to the sale negotiations in order to establish the market value, on the basis of generally accepted market indicators and valuation standards, is in principle satisfactory.⁴

In relation to the sale of Nessjordet B 5, the Municipality decided to obtain assistance from a real-estate agent. In this regard, the Municipality held a competition for real estate agent services, through which they received four offers. In turn, the winner, Eiendomsmegler 1, assessed the area and estimated the market price to be NOK 6.5 million. The independent evaluation undertaken prior to the sale of Nessjordet B 5 indicates that Nessjordet B 5 was sold at market price, and that no aid was involved in the sale.

Regarding the sales process, several stakeholders initially expressed interest in the property. Yet, further into the process, only two stakeholders showed interest, and in the bidding round the real estate agent received only one bid. This was on NOK 6 million. After receiving the bid, the real estate agent contacted the other stakeholder who was still involved in the process. However, they did not want to submit a bid. The sale was therefore carried out in accordance with the bid on NOK 6 million. This amounts to NOK 580 per m².

Based on information gathered by the Authority, the low interest the Municipality received during the bidding procedure reflects the market situation in the area at the time. This is evident from the fact that the Municipality, at the same time as the sale of Nessjordet B 5, sold five plots of land in the same area through real estate agents in the open market. Crucially, the Municipality only obtained the estimated market price on one of these plots of land. The estimated market price on these plots of land ranged from NOK 539–576 per m², while the Municipality achieved NOK 472–522 per m². In other words, the price per m² obtained for these plots of land was in fact lower than the price per m² obtained for Sentrumstomta and Nessjordet B 5.

Based on an overall assessment of the above indications and in light of the available evidence, the Authority is of the view that the Municipality achieved a market price for Nessjordet B 5. Hence, it is the preliminary view of the Authority that Fuglesangdahl AS did not obtain an economic benefit that they could not have obtained under normal market conditions.

³ Notion of aid, paragraph 101.

⁴ Notion of aid, paragraph 103.

2.4 The sale of Kvitveisvegen 1, Strandvegen 1–5 and Nessveet 5

In your complaint, you allege that the sale of Kvitveisvegen 1, Strandvegen 1–5 and Nessveet 5 are comparable transactions carried out by comparable private operators which indicates that the sale of Sentrumstomta and Nessjordet B 5 was not carried out in accordance with market conditions.

To assess a transaction in the light of the terms under which comparable transactions have been carried out by comparable private operators is indeed one way to establish whether a transaction has been carried out in line with market conditions.⁵ However, based on information gathered by the Authority, neither Kvitveisvegen 1 nor Strandvegen 1–5 nor Nessveet 5 is comparable to Sentrumstomta or Nessjordet B 5, and the sale of these properties is therefore not able to show that Sentrumstomta or Nessjordet B 5 was sold below market price.

All of the transactions you refer to regard sales of already developed properties. More precisely, these properties are sold with villas, and they are located in already established residential areas where local infrastructure was in place. By contrast, Sentrumstomta and Nessjordet B 5 were sold as undeveloped plots of land without local infrastructure. This means that in addition to the fact that the sale of Sentrumstomta and Nessjordet B 5 did not include villas, the buyers of Sentrumstomta and Nessjordet B 5 had to bear significant costs relating to measures such as a road, water and sewerage, streetlights and common areas. As these costs necessarily are reflected in the price of Sentrumstomta and Nessjordet B 5, these plots of land are not comparable to Kvitveisvegen 1, Strandvegen 1–5 and Nessveet 5.

Furthermore, Norwegian authorities have provided information showing that, contrary to your allegations, the value of the plots of land in the area where Sentrumstomta and Nessjordet B 5 were sold, is in fact not higher than the value of the plots of land in the area where Kvitveisvegen 1, Strandvegen 1–5 and Nessveet 5 was sold. Suffice it to mention that a plot of land with the property registration number 136/022, which is located in the immediate vicinity of Kvitveisvegen 1, was sold for NOK 2.1 million in 2011. In other words, a price of NOK 1 254 per m². By way of comparison, plots of land in the same area as Sentrumstomta have recently been valued at NOK 850 per m². Besides, the fact that the Municipality only received one contribution to their development and architectural competition regarding the sale of Sentrumstomta in and of itself indicates that there was limited commercial interest in the area at the time.

3. Preliminary View

With reference to paragraph 48(b) of the Authority's Guidelines on Best Practice for the conduct of state control procedures⁶ and based on the information available, it is the Authority's preliminary view that Grande Eiendom AS and Fuglesangdahl AS have not received any aid in breach of the EEA state aid rules.

If you have any additional information you would like to submit that might change this preliminary view, please do so **by 7 November 2019**. Otherwise, the case will be closed without further notice. A copy of this letter will be sent to the Norwegian

⁵ Notion of aid, paragraph 98.

⁶ [OJ L 82, 22.3.2012, p. 7](#) and [EEA Supplement No 17, 22.3.2012, p. 1](#).

authorities, in line with the Authority's Guidelines on Best Practice for the conduct of state control procedures.⁷

Yours sincerely,

Gjermund Mathisen
Director
Competition and State aid

Placeholder for electronic signature. Please do not delete.

⁷ Paragraph 51.